

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE  
PLAYERS' CONCUSSION INJURY LITIGATION

No. 2:12-md-02323-AB  
MDL No. 2323

Kevin Turner and Shawn Wooden, on behalf  
of themselves and others similarly situated,

Plaintiffs,

v.

National Football League and NFL Properties, LLC,  
successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO:

Pope McGlamry PC v. Edward King  
Attorney Lien Dispute  
(Doc. No. 6856)

**REPORT AND RECOMMENDATION**

DAVID R. STRAWBRIDGE  
UNITED STATES MAGISTRATE JUDGE

February 4, 2019

Before the Court for Report and Recommendation is a Petition to Establish Attorney's Lien ("Lien") seeking attorney's fees and costs from any Monetary Claim to be paid to Settlement Class Member Edward E. King ("King"), which was filed on June 30, 2016 by Pope, McGlamry, Kilpatrick, Morrison & Norwood, P.C. ("Pope McGlamry"). (Doc. No. 6856). On March 1, 2018, the Claims Administrator issued a Notice of Lien to Mr. King's current counsel – Berkowitz and Hanna LLC ("Berkowitz"). On September 19, 2018, the Claims Administrator issued a Notice of Monetary Award Claim Determination.

The District Court referred all Petitions for individual attorney's liens to this Court. (Doc. No. 7746). Rules Governing Attorneys' Liens ("Rules") were adopted on March 6, 2018 and

amended on October 3, 2018. (Doc. Nos. 9760 and 10283). Accordingly, the Claims Administrator has referred the Lien Dispute and the Withdrawal to this Court for Report and Recommendation.

Pursuant to Rule 24, the Parties submitted a Withdrawal of Attorney's Lien Dispute (the "Withdrawal").<sup>1</sup> The signed agreement clearly indicates the percentage of the Award that each law firm and the Settlement Class Member will receive and sets forth an agreement as to how to disburse any portion of the 5% holdback that may be released in the future. Upon review of the Withdrawal, the contingency fee agreement, the list of itemized costs submitted by Berkowitz, and in consideration of the Presumptive Fee Cap imposed by the District Court (Doc. No. 9863), we conclude that Berkowitz is entitled to the costs asserted. We further conclude that the fees to be paid to each firm is reasonable, and collectively within the percentage allowed under the 22% Presumptive Fee Cap.

Accordingly, we conclude that the Withdrawal shall be granted, and the Claims Administrator is ordered to distribute the attorneys' fees and costs to Berkowitz, the attorneys' fees to Pope McGlamry, and the refund to King, as was set forth in the Withdrawal.<sup>2</sup>

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<sup>1</sup> Berkowitz signed its copy of the withdrawal on December 5, 2018. Pope McGlamry signed its on January 18, 2019.

<sup>2</sup> Pursuant to the Court's Order Regarding Withholdings for Common Benefit Fund (Doc. No. 10104), 5% of the Award is currently being held in the Attorney's Fees Qualified Settlement Fund, where it must remain until further order of the Court. The Claims Administrator will ensure that if any portion of those funds are later released they will be paid pursuant to the agreed terms in the Withdrawal.

**RECOMMENDATION**

**AND NOW**, this 4<sup>th</sup> day of February, 2019, it is respectfully **RECOMMENDED** that the withdrawal of lien dispute be **GRANTED** and the Claims Administrator be ordered to distribute the attorneys' fees and costs as is set forth in the Withdrawal submitted by the Parties.

The Parties may file objections to this Report and Recommendation. *See* Rule 25(d).

BY THE COURT:

/s/ David R. Strawbridge, USMJ  
DAVID R. STRAWBRIDGE  
UNITED STATES MAGISTRATE JUDGE

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## ORDER

**AND NOW**, this       day of       , 2019, upon consideration of the Report and Recommendation of United States Magistrate Judge David R. Strawbridge (ECF No. \_\_\_\_\_), and no objection having been docketed, it is **ORDERED** that:

1. The Report and Recommendation is **ADOPTED**;
2. The Withdrawal of the Lien Dispute is **GRANTED**; and
3. The Claims Administrator is **ORDERED** to disburse the withheld funds in accordance with this decision, the provisions of the Settlement Agreement, and all Court Orders regarding implementation.

BY THE COURT:

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ANITA B. BRODY, J.